IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 2269 of 2003
With
CRIMINAL MISC.APPLICATION No. 2270 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BIPINCHANDRA MANCHUBHAI PATEL AND ANOTHER
Versus
DILIPBHAI BHAGWANBHAI PATEL AND ANOTHER

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Appearance :
MR AS VAKIL for Applicants.
MR KK TRIVEDI for Respondent No. 1.
MS MANISHA SHAH, APP for Respondent No. 2.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 25/01/2006

ORAL JUDGMENT

By filing these applications, the applicants have prayed that Inquiry

Case being Special Criminal Case No.11/2003 filed by respondent No.2 before the Court of Chief Judicial Magistrate, Surat may be quashed. Criminal Misc. Application No.2269/2001 is filed by accused Nos.1 and 2 of the aforesaid complaint, while Criminal Misc. Application No.2270/2001 is filed by accused Nos.3 to 8 of the aforesaid complaint. Since the complaint is common in both these applications, with the consent of the parties both these matters are taken up for final hearing together.

As per the complaint, accused Nos. 1 and 2 are the friends of the complainant. The accused Nos.1 and 2 had agreed that if the complainant help them in selling a plot of land, as mentioned in paragraph 3 of the complaint, they will pay part of the profit received from such transaction to the complainant. It is also alleged in the complaint that on 27-7-2000 accused Nos.1 and 2 had executed a general power of attorney in favour of the complainant and the complainant was permitted to deal with the property. Subsequently, the accused gave notice to the complainant stating therein that the power of attorney is cancelled. The complainant, therefore, filed aforesaid complaint under Sections 406, 420, 114, 120-B read with Section 34 of Indian Penal Code on the ground that he is cheated by the accused. In the said complaint, learned Magistrate passed an order of police investigation under Section 156 (3) of the Criminal Procedure Code. At this stage, the applicants have filed both these application stating that since the dispute is of civil nature complaint may be quashed.

Today, Court is informed by Mr.Vakil, learned advocate for the applicants as well as by Mr.Trivedi, learned advocate for the complainant

that the parties have settled the dispute and it is submitted that since the offence in question is compoundable, aforesaid complaint may be quashed. A copy of the consent terms arrived at between the parties in Special Civil Suit No.61 of 2003 is also placed on record.

Mr.Trivedi, learned advocate for respondent No.1 submitted that he has no objection if the complaint is quashed.

Ms.Manisha Shah, learned APP submitted that since the parties have settled the dispute inter se, no useful purpose will be served by permitting the police to investigate the case.

Considering the fact that the parties have settled the dispute and since the offence in question is compoundable, both these applications are allowed. Inquiry Case being Special Criminal Case No.11/2003 pending before Chief Judicial Magistrate, Surat as well as the order passed below said complaint by learned Magistrate for holding inquiry under Section 156 (3) of the Criminal Procedure Code is also quashed and consequent, investigation undertaken on the basis of said order is also quashed. Rule is made absolute.

(P.B.MAJMUDAR, J.)

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